



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : Davis et al.  
FOR : FUEL PUMP MONITORING SYSTEM  
SERIAL NO. : 10/676,607  
FILED : October 1, 2003  
EXAMINER : Unknown  
ART UNIT : 3747  
CONFIRMATION NO. : 7954  
ATTORNEY DOCKET NO. : AGTZ 2 00047

**ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY**  
**FOR SIGNATURE BY JOINT INVENTORS ON BEHALF OF NONSIGNING**  
**INVENTOR WHO REFUSES TO SIGN OR CANNOT BE REACHED**  
**(37 C.F.R. 1.47(a))**

I am an above named joint inventor and have signed this declaration on my own behalf and also sign this declaration under 37 CFR 1.47(a) on behalf of the nonsigning joint inventor, particulars for whom are:

Brian J. Davis,  
nonsigning inventor who refuses to sign

United State of America  
Country of Citizenship of nonsigning inventor

12931 Chamberlain Road, Aurora, OH 44202-9745  
Last known address of nonsigning inventor

Accompanying this declaration is:

- (1) STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47) (Efforts by Alan C. Brandt).
- (2) STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47) (Efforts by Timothy E. Nauman).

**Full name of 1st joint inventor:**

Gary Kochis

Inventor's signature



Date

3/5/2004

Residence: 2663 Curry Circle, Uniontown, OH 44685

Citizenship: USA

Post Office Address:

2663 Curry Circle  
Uniontown, OH 44685

**Full name of 2nd joint inventor:**

E. Kent Miller

Inventor's signature

Date

Residence: 7107 Butterwood Drive, Cincinnati, OH 45241

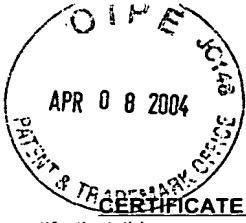
Citizenship: USA

Post Office Address:

7107 Butterwood Drive  
Cincinnati, OH 45241

**Full name of 1st joint inventor:** Gary Kochis  
**Inventor's signature** \_\_\_\_\_ **Date** \_\_\_\_\_  
**Residence:** 2663 Curry Circle, Uniontown, OH 44685  
**Citizenship:** USA  
**Post Office Address:** 2663 Curry Circle  
Uniontown, OH 44685

**Full name of 2nd joint inventor:** E. Kent Miller  
**Inventor's signature** E. Kent Miller **Date** 3 MAR 2004  
**Residence:** 7107 Butterwood Drive, Cincinnati, OH 45241  
**Citizenship:** USA  
**Post Office Address:** 7107 Butterwood Drive  
Cincinnati, OH 45241



**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: Apr. 16, 2004  
By: Laurie A. Boylan  
Laurie A. Boylan

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : Davis et al.  
FOR : **FUEL PUMP MONITORING SYSTEM  
AND ASSOCIATED METHOD**  
SERIAL NO. : 10/676,607  
FILED : October 1, 2003  
EXAMINER : Unknown  
ART UNIT : 3747  
CONFIRMATION NO. : 7954  
ATTORNEY DOCKET NO. : **AGTZ 2 00047**

**STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF  
OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)**  
**(EFFORTS BY ALAN C. BRANDT)**

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above-identified patent application in conjunction with a response to a Notice of Missing Parts for submission of an unsigned oath/declaration.

This statement is being made by the available person having first-hand knowledge of the facts recited therein.

## **IDENTIFICATION OF PERSON MAKING THIS STATEMENT OF FACTS**

Alan C. Brandt  
Fay, Sharpe, Fagan, Minnich & McKee, LLP  
1100 Superior Avenue  
Seventh Floor  
Cleveland, Ohio 44113  
USA

## **LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR**

Brian J. Davis  
Full name of nonsigning inventor

12931 Chamberlain Road, Aurora, OH 44202-9745  
Last known address of nonsigning inventor

## **DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR**

Fay, Sharpe, Fagan, Minnich & McKee, LLP: - Efforts made by Alan C. Brandt, Esq.:

DATE:	ACTION:
Sept. 30, 2003	E-mail to Brian Davis <a href="mailto:brianjdavis@mizartechologies.com">brianjdavis@mizartechologies.com</a> of Mizar Technologies requesting review of attached second draft for above-identified patent application and, upon approval of application, execution of attached declaration. (Exhibit 1)
October 1, 2003	E-mail forwarded from Brian Davis indicating that Brian had requested David Loney of Argo-Tech to re-affirm in writing certain arrangements between Mizar and Argo-Tech in a first message to David. In a second message to David, Brian stated that his attorney, Mike Ellis, had advised him not to sign the Declaration associated with the above-identified patent application until the arrangements were re-affirmed in writing. (Exhibit 2)
October 1, 2003	Telephone conversation with Brian Davis in which he provided approval of the above-identified patent application and indicated that he was holding off on executing the Declaration until Argo-Tech had re-affirmed in writing certain arrangements between Mizar and Argo-Tech.

DATE: ACTION:

October 1, 2003 E-mail to Brian Davis confirming my understanding that he had approved the above-identified patent application for filing purposes and that he was holding the executed Declaration until he heard from Argo-Tech on a related matter. I indicated that the patent application would be filed without his executed Declaration and requested him to send us the executed Declaration as soon as he worked things out with Argo-Tech.  
(Exhibit 3)

October 1, 2003 E-mail from Brian Davis in reply to my last e-mail confirming his receipt and agreement with our filing of the above-identified patent application without his executed Declaration.  
(Exhibit 4)

06 April 2004  
Date

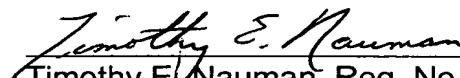
  
Alan C. Brandt

The foregoing submission is believed to meet certain requirements of the Notice to File Missing Parts, and the applicants await further action on the application from the Patent and Trademark Office.

Respectfully submitted,

FAY, SHARPE, FAGAN,  
MINNICH & McKEE, LLP

06 April 2004  
Date

  
Timothy E. Nauman, Reg. No. 32,283  
Alan C. Brandt, Reg. No. 50,218  
1100 Superior Avenue  
Seventh Floor  
Cleveland, OH 44114-2518  
216/861-5582



ABrandt/FAYSHARPE

09/30/2003 06:49 PM

To brianjdavis@mizartechologies.com  
cc ABrandt/FAYSHARPE@FAYSHARPE,  
MSvat/FAYSHARPE@FAYSHARPE, loney@argo-tech.com  
bcc  
Subject AGTZ 200047 - Patent Application

Brian,

We have completed the patent application directed toward a FUEL PUMP MONITORING SYSTEM AND ASSOCIATED METHOD to which you are named as an inventor. Reference our docket no. AGTZ 2000047. The attached patent application, including the specification and claims <lab1463a.wpd> and the drawings <agt20047.pdf>, has been conditionally approved. As you may know, in order to claim priority to the provisional patent application, we must file this patent application on October 1, 2003.

We anticipate that no further changes will be required. However, you are welcome to review the specification, claims, and drawings to insure that they are accurate and complete. In addition, you should be satisfied that the specification discloses what you currently consider to be the best mode for implementing the claimed invention. In the event that changes to the patent application are necessary, you may convey your comments to us in the same manner as we have used in the past.

We also take this opportunity to remind you of an inventor's ongoing obligation to provide the Patent Office with any prior art (publications, issued patents, etc.) that may be relevant to the application. Therefore, if any such material has come to your attention, we ask that you forward it to us and we will see that it is submitted.

We have also attached a declaration <agt2047d.pdf> and an assignment <agt2047a.pdf>. Upon your approval of the 2nd draft without further changes, please execute both the declaration and assignment. If further changes are required, please delay your execution until we have the opportunity to incorporate the changes and provide you with a revised application.

**For EXECUTION of the DECLARATION and ASSIGNMENT:**

- 1) First, print two (2) sets of both the declaration and assignment forms.
- 2) Second, if everything is in order, sign and date both sets of both forms.
- 3) Third, to expedite filing of the application in the U.S. Patent Office, fax one copy of the signed declaration and the signed assignment to us at (216)241-1666.
- 4) Finally, return both signed original declarations and both signed original assignments to us by mail at Fay, Sharpe, Fagan, Minnich & McKee LLP, 1100 Superior Avenue, Seventh Floor, Cleveland, Ohio 44114-2518.

Please contact me or my assistant, Laurie Boylan <lboylan@faysharpe.com>, if you have any questions or comments. Otherwise, I look forward to receiving your final approval and the executed documents. Thanks for your cooperation in the preparation of the patent application.

Alan Brandt  
Fay, Sharpe, Fagan, Minnich & McKee LLP  
1100 Superior Avenue, Seventh Floor  
Cleveland, Ohio 44114-2518  
Ph. 216.861.5582  
Fax 216.241.1666  
e-mail abrandt@faysharpe.com

This message is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged and/or confidential. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, forwarding, or copying of this communication is

strictly prohibited. If you have received this communication in error, please notify the sender immediately by e-mail or telephone, and delete the original message immediately. Thank you for your cooperation.



LAB1463A.wpd



agt20047.pdf



agt2047d.pdf



agt2047a.pdf

**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

As a below inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor( if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**FUEL PUMP MONITORING SYSTEM AND ASSOCIATED METHOD**

the specification of which:

[ ] is attached hereto [ ] was filed on \_\_\_\_\_  
as Application Serial No. \_\_\_\_\_  
and was amended on \_\_\_\_\_  
(if applicable)

[ X ] was filed as an international patent application with a PCT Request \_\_\_\_\_

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed above and have also identified below, by check the box, any foreign application(s) for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application

(Number)	(Country)	(Day/Month/Year Filed)	Certified Copy Attached?
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I hereby claim the benefit under 35 U.S.C. 119(e) of an United States provisional application(s) listed below.

60/415,186 Application No(s)	1 Oct 2002 (Day/Month/Year Filed)	[ ] additional provisional application numbers are listed on a supplemental priority data sheet attached
---------------------------------	--------------------------------------	--

I hereby claim the benefit under Title 35, United States, § 120 of any United States application(s) or any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information which is material to patentability as defined in Title 37, of Federal Regulations Code, § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (If Applicable)
---	------------------------------------	---

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorneys to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith.

Mark E. Bandy,	Reg. No. 35,788	Michael E. Hudzinski, Reg. No. 34,185	Sue Ellen Phillips, Reg. No. 32,046
Brian G. Bembenick,	Reg. No. 41,463	Richard M. Klein, Reg. No. 33,000	Patrick R. Roche, Reg. No. 29,580
Alan C. Brandt,	Reg. No. 50,218	Thomas E. Kocovsky, Reg. No. 28,383	James E. Scarbrough, Reg. No. 47,056
John P. Cornely,	Reg. No. 41,687	Sandra M. Koenig, Reg. No. 33,722	Ann M. Skerry, Reg. No. 45,655
E. Kent Daniels,	Reg. No. 19,598	Scott A. McCollister, Reg. No. 33,961	Mark S. Svat, Reg. No. 34,261
Joseph D. Dreher,	Reg. No. 37,123	James W. McKee, Reg. No. 26,482	Brian E. Turung, Reg. No. 35,394
Matthew P. Dugan,	Reg. No. 44,663	Richard J. Minich, Reg. No. 24,175	Robert V. Vickers, Reg. No. 19,504
Christopher B. Fagan,	Reg. No. 22,987	Jay F. Moldovanyi, Reg. No. 29,678	Gregory S. Vickers, Reg. No. 45,180
Patrick D. Floyd,	Reg. No. 39,671	Philip J. Moy, Reg. No. 31,280	Joseph E. Waters, Reg. No. 50,427
Jude A. Fry,	Reg. No. 38,340	Timothy E. Nauman, Reg. No. 32,283	Thomas E. Young, Reg. No. 28,924
Steven M. Haas,	Reg. No. 37,841	Erik J. Overberger, Reg. No. 48,556	John S. Zanghi, Reg. No. 48,843

**DIRECT TELEPHONE CALLS TO:**      **DIRECT ALL CORRESPONDENCE TO:**

Timothy E. Nauman

Telephone: 216/861-5582

Faxsimile: 216/241-1666

E-mail: tnauman@faysharpe.com

Timothy E. Nauman

Fay, Sharpe, Fagan, Minnich & McKee, LLP

1100 Superior Avenue, 7th Floor

Cleveland, OH 44114-2518

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of first joint inventor: Brian J. Davis

Inventor's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: Aurora, Ohio

Country of Citizenship: United States of America Post Office Address: 12931 Chamberlain Road

Aurora, Ohio 44202-9745

Full name of second joint inventor: Gary Kochis

Inventor's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: Uniontown, Ohio

Country of Citizenship: United States of America Post Office Address: 2663 Curry Circle  
Uniontown, Ohio 44685

Full name of third joint inventor: E. Kent Miller

Inventor's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Residence: Cincinnati, Ohio

Country of Citizenship: United States of America Post Office Address: 7107 Butterwood Drive  
Cincinnati, Ohio 45241



"Brian J. Davis"  
<brianjdavis@mizartechnolog  
ies.com>  
10/01/2003 04:40 PM

To <ABrandt@faysharpe.com>  
cc  
bcc  
Subject Fw: "A Mizar thought"

----- Original Message -----

**From:** Brian J. Davis  
**To:** loney@argo-tech.com  
**Sent:** Wednesday, October 01, 2003 4:13 PM  
**Subject:** Fw: "A Mizar thought"

David, Mike Ellis, our attorney, advised me not to sign until this is received. Will this happen today?

Brian

----- Original Message -----

**From:** Brian J. Davis  
**To:** loney@argo-tech.com  
**Sent:** Wednesday, October 01, 2003 9:59 AM  
**Subject:** "A Mizar thought"

David,

The documents for Declaration and Assignment have been printed here.  
...and good morning.

Brian J. Davis  
Mizar Technologies, LLC  
"World Navigation & Property Tracking"  
1931 Georgetown Road  
Hudson, OH 44236  
Brian's pocket phone: 1.330.806.3663  
1.330.528.3841 (Cleveland line)  
1.330.341.7388 (Akron line)  
brianjdavis@mizartechnologies.com

**REDACTED**



ABrandt/FAYSHARPE

10/01/2003 05:11 PM

To "Brian J. Davis" <brianjdavis@mizartechologies.com>  
cc ABrandt/FAYSHARPE@FAYSHARPE,  
loney@argo-tech.com  
bcc  
Subject Re: AGTZ 200047 - Patent Application

Brian,

Thanks for your prompt attention to the patent application today. I understood from your e-mail & our telephone conversation this afternoon that you felt the application was ready to file. I also understood that you are holding the executed declaration and assignment papers until you hear from Argo-Tech on a related matter. At this point we are proceeding with filing the patent application. Please send us the executed papers as soon as you work things out so that we can see that they are also filed in due course.

Regards,  
Alan

"Brian J. Davis" <brianjdavis@mizartechologies.com>



"Brian J. Davis"  
<brianjdavis@mizartechologies.com>  
10/01/2003 08:56 AM  
To <abrandt@faysharpe.com>  
cc  
Subject Re: AGTZ 200047 - Patent Application

You are the man, I will do as requested and directed.

Good morning.

Brian

----- Original Message -----

From: <abrandt@faysharpe.com>  
To: <brianjdavis@mizartechologies.com>  
Cc: <abrandt@faysharpe.com>; <MSvat@faysharpe.com>; <loney@argo-tech.com>  
Sent: Tuesday, September 30, 2003 6:49 PM  
Subject: AGTZ 200047 - Patent Application

>

>

>

> Brian,

>

> We have completed the patent application directed toward a FUEL PUMP  
> MONITORING SYSTEM AND ASSOCIATED METHOD to which you are named as an  
> inventor. Reference our docket no. AGTZ 2000047. The attached patent  
> application, including the specification and claims <lab1463a.wpd> and the  
> drawings <agt20047.pdf>, has been conditionally approved. As you may  
know,

**REDACTED**

> in order to claim priority to the provisional patent application, we must  
> file this patent application on October 1, 2003.  
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> We anticipate that no further changes will be required. However, you are  
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mode  
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the  
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> We have also attached a declaration <agt2047d.pdf> and an assignment  
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> For EXECUTION of the DECLARATION and ASSIGNMENT:  
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> 2) Second, if everything is in order, sign and date both sets of both  
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> 3) Third, to expedite filing of the application in the U.S. Patent Office,  
> fax one copy of the signed declaration and the signed assignment to us at  
> (216)241-1666.  
> 4) Finally, return both signed original declarations and both signed  
original assignments to us by mail at Fay, Sharpe, Fagan, Minnich & McKee  
> LLP, 1100 Superior Avenue, Seventh Floor, Cleveland, Ohio 44114-2518.  
>  
> Please contact me or my assistant, Laurie Boylan <lboylan@faysharpe.com>,  
> if you have any questions or comments. Otherwise, I look forward to  
> receiving your final approval and the executed documents. Thanks for your  
> cooperation in the preparation of the patent application.  
>  
> Alan Brandt  
> Fay, Sharpe, Fagan, Minnich & McKee LLP  
> 1100 Superior Avenue, Seventh Floor  
> Cleveland, Ohio 44114-2518  
> Ph. 216.861.5582  
> Fax 216.241.1666  
> e-mail abrandt@faysharpe.com  
>  
> This message is intended for the use of the individual or entity to which  
> it is addressed and may contain information that is privileged and/or  
> confidential. If the reader of this message is not the intended  
recipient,  
> or the employee or agent responsible for delivering the message to the  
> intended recipient, you are hereby notified that any dissemination,  
> distribution, forwarding, or copying of this communication is strictly  
> prohibited. If you have received this communication in error, please  
> notify the sender immediately by e-mail or telephone, and delete the  
> original message immediately. Thank you for your cooperation.

>  
> (See attached file: LAB1463A.wpd) (See attached file: agt20047.pdf) (See  
> attached file: agt2047d.pdf) (See attached file: agt2047a.pdf)



"Brian J. Davis"  
<brianjdavis@mizatechnologies.com>  
10/01/2003 05:20 PM

To <abrandt@faysharpe.com>  
cc  
bcc  
Subject Re: AGTZ 200047 - Patent Application

Perfect.

----- Original Message -----

From: <abrandt@faysharpe.com>  
To: "Brian J. Davis" <brianjdavis@mizatechnologies.com>  
Cc: <abrandt@faysharpe.com>; <loney@argo-tech.com>  
Sent: Wednesday, October 01, 2003 5:11 PM  
Subject: Re: AGTZ 200047 - Patent Application

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> Regards,  
> Alan  
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>  
>  
>

> "Brian J. Davis"  
> <brianjdavis@miza  
> rtechnologies.com  
>  
> 10/01/2003 08:56  
> AM

To  
<abrandt@faysharpe.com>  
cc  
Subject  
Re: AGTZ 200047 - Patent  
Application

> You are the man, I will do as requested and directed.

> Good morning.  
> Brian  
> ----- Original Message -----  
> From: <[abrandt@faysharpe.com](mailto:abrandt@faysharpe.com)>  
> To: <[brianjdavis@mizartechologies.com](mailto:brianjdavis@mizartechologies.com)>  
> Cc: <[abrandt@faysharpe.com](mailto:abrandt@faysharpe.com)>; <[MSvat@faysharpe.com](mailto:MSvat@faysharpe.com)>; <[loney@argo-tech.com](mailto:loney@argo-tech.com)>  
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**REDACTED**

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McKee  
> > LLP, 1100 Superior Avenue, Seventh Floor, Cleveland, Ohio 44114-2518.  
>  
> > Please contact me or my assistant, Laurie Boylan  
<lboylan@faysharpe.com>,  
> > if you have any questions or comments. Otherwise, I look forward to  
> > receiving your final approval and the executed documents. Thanks for  
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> > cooperation in the preparation of the patent application.  
>  
> > Alan Brandt  
> > Fay, Sharpe, Fagan, Minnich & McKee LLP  
> > 1100 Superior Avenue, Seventh Floor  
> > Cleveland, Ohio 44114-2518  
> > Ph. 216.861.5582  
> > Fax 216.241.1666  
> > e-mail abrandt@faysharpe.com  
>  
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: Apr. 16, 2004  
By: Laurie A. Boylan  
Laurie A. Boylan

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : Davis et al.  
FOR : FUEL PUMP MONITORING SYSTEM  
AND ASSOCIATED METHOD  
SERIAL NO. : 10/676,607  
FILED : October 1, 2003  
EXAMINER : Unknown  
ART UNIT : 3747  
CONFIRMATION NO. : 7954  
ATTORNEY DOCKET NO. : AGTZ 2 00047

**STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF  
OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)**  
**(EFFORTS BY TIMOTHY E. NAUMAN)**

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above-identified patent application in conjunction with a response to a Notice of Missing Parts for submission of an unsigned oath/declaration.

This statement is being made by the available person having first-hand knowledge of the facts recited therein.

## **IDENTIFICATION OF PERSON MAKING THIS STATEMENT OF FACTS**

Timothy E. Nauman  
Fay, Sharpe, Fagan, Minnich & McKee, LLP  
1100 Superior Avenue  
Seventh Floor  
Cleveland, Ohio 44113  
USA

## **LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR**

Brian J. Davis

Full name of nonsigning inventor

12931 Chamberlain Road, Aurora, OH 44202-9745

Last known address of nonsigning inventor

## **DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR**

Fay, Sharpe, Fagan, Minnich & McKee, LLP: - Efforts made by Timothy E. Nauman, Esq.:

DATE:	ACTION:
Feb. 19, 2004	Letter to legal counsel for Brian Davis and Mizar Technologies, Michael A. Ellis of Kahn Kleinman, providing originally-filed above-identified patent application and requesting execution of enclosed Declaration by Brian Davis. Notice was provided that we would presume Brian refused to sign if an executed Declaration was not received by us by noon, March 5, 2004. (Exhibit 1)
Feb. 26, 2004	Letter from legal counsel for Brian Davis and Mizar Technologies, Michael A. Ellis of Kahn Kleinman, indicating that Mizar would not agree to execute the Declaration for the above-identified patent application. (Exhibit 2)

06 April 2004  
Date

Timothy E. Nauman  
Timothy E. Nauman

The foregoing submission is believed to meet certain requirements of the Notice to File Missing Parts, and the applicants await further action on the application from the Patent and Trademark Office.

Respectfully submitted,

FAY, SHARPE, FAGAN,  
MINNICH & MCKEE, LLP

06 April 2004  
Date

*Timothy E. Nauman*  
Timothy E. Nauman, Reg. No. 32,283  
Alan C. Brandt, Reg. No. 50,218  
1100 Superior Avenue  
Seventh Floor  
Cleveland, OH 44114-2518  
216/861-5582



EXHIBIT

1

ALL-STATE LEGAL®

## FAY, SHARPE, FAGAN, MINNICH &amp; MCKEE, LLP

PATENT TRADEMARK AND COPYRIGHT LAW

1100 SUPERIOR AVENUE

SEVENTH FLOOR

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PHILIP J. MOY, JR.  
TIMOTHY E. NAUMAN  
PATRICK R. ROCHE  
MARK S. SVAT  
BRIAN E. TURUNG  
ROBERT V. VICKERS  
  
OR COUNSEL  
E. KENT DANIELS, JR.  
RICHARD J. MINNICH  
THOMAS E. YOUNG

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REGISTERED PATENT AGENTS  
ROBERT M. SIEG, PH.D.  
THOMAS TILLANDER  
MARINA V. ZALEVSKY  
  
ALBERT P. SHARPE, III  
1959-2001

February 19, 2004

## VIA FACSIMILE AND REGULAR MAIL

Michael A. Ellis, Esq.  
Kahn Kleinman  
2600 Erieview Plaza  
1301 East 9<sup>th</sup> Street  
Cleveland, OH 44114

RE: U.S. Patent Application  
For: **FUEL PUMP MONITORING SYSTEM  
AND ASSOCIATED METHOD**  
Filed: October 1, 2003; Serial No. 10/676,607  
Our Ref.: AGTZ 2 00047

Dear Mr. Ellis:

As you know, your client, Brian Davis of Mizar Technologies, LLC is named as a joint inventor in a patent application directed toward a "Fuel Pump Monitoring System and Associated Method" that was filed (as a U.S. national application and a PCT application) in the U.S. Patent and Trademark Office (PTO) on October 1, 2003. At this point, his signature is required on Declaration and Assignment papers that must be filed with the PTO. These papers are enclosed, along with a copy of the application. The executed Declaration is due to be filed by March 6, 2004.

Moreover, Article 4 of the Purchase Order that Mr. Davis signed requires him to "execute and deliver ... all documents pertaining to such Subject Inventions and take such other actions as may be reasonably required by Customer to assist in obtaining patents in the United States and any other countries for the Subject Inventions."

Please instruct your client to follow the instructions outlined below regarding execution, faxing, and mailing of the Declaration and Assignment papers:

Michael A. Ellis, Esq.  
Kahn Kleinman  
February 18, 2004  
Page 2

1) Review the Declaration and Assignment forms and, if everything is in order, sign and date the forms. If you find that your name or address is incorrect in either form, please make an appropriate hand-marked correction, then initial and date each hand-marked correction.

2) Next, to expedite filing of the papers in the U.S. Patent and Trademark Office, fax one copy of the executed Declaration and the executed Assignment to my attention at 216-241-1666.

3) Finally, mail the executed original Declaration and the executed original Assignment to my attention at the address identified in our letterhead.

Under PTO rules (37 C.F.R. 1.47), if your client does not sign the Declaration, be advised that Argo-Tech is permitted to pursue the application without his signature.

**§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in

Michael A. Ellis, Esq.  
Kahn Kleinman  
February 18, 2004  
Page 3

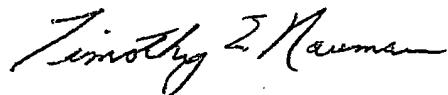
the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the R-41 Jan. 21, 2004

Your prompt attention to this matter is required so that the above-identified Patent Office deadline can be met. If the signed papers are not received on or before 12:00 noon on March 5, 2004, we must presume that your client refuses to sign and we will prepare the necessary papers to proceed without signature.

If you have any questions, please contact me.

Very truly yours,

FAY, SHARPE, FAGAN,  
MINNICH & McKEE, LLP



Timothy E. Nauman

TEN:mms  
Enclosures – 3 (with confirmation of letter)

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**DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION**

**As a below inventor, I hereby declare that:**

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor( if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

## FUEL PUMP MONITORING SYSTEM AND ASSOCIATED METHOD

the specification of which:

[ ] is attached hereto [ X ] was filed on October 1, 2003  
as Application Serial No. 10/676,607  
and was amended on \_\_\_\_\_  
(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56 (a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed above and have also identified below, by check the box, any foreign application(s) for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed:

### Prior Foreign Application

(Number) (Country) (Day/Month/Year Filed) Certified Copy Attached?

I hereby claim the benefit under 35 U.S.C. 119(e) of an United States provisional application(s) listed below.

60/415,186      1 Oct 2002      [ ] additional provisional application numbers  
Application No(s)      (Day/Month/Year Filed)      are listed on a supplemental priority data sheet attached

I hereby claim the benefit under Title 35, United States, § 120 of any United States application(s) or any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information which is material to patentability as defined in Title 37, of Federal Regulations Code, § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

PCT/US03/14483	May 6, 2003	
U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number <i>(If Applicable)</i>

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorneys to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith.

Mark E. Bandy, Reg. No. 35,788	Michael E. Hudzinski, Reg. No. 34,185	Sue Ellen Phillips, Reg. No. 32,046
Brian G. Bembenick, Reg. No. 41,463	Richard M. Klein, Reg. No. 33,000	Patrick R. Roche, Reg. No. 29,580
Alan C. Brandt, Reg. No. 50,218	Thomas E. Kocovsky, Reg. No. 28,383	James E. Scarbrough, Reg. No. 47,056
John P. Cornely, Reg. No. 41,687	Sandra M. Koenig, Reg. No. 33,722	Ann M. Skerry, Reg. No. 45,655
E. Kent Daniels, Reg. No. 19,598	Scott A. McCollister, Reg. No. 33,961	Mark S. Svat, Reg. No. 34,261
Joseph D. Dreher, Reg. No. 37,123	James W. McKee, Reg. No. 26,482	Brian E. Turung, Reg. No. 35,394
Matthew P. Dugan, Reg. No. 44,663	Richard J. Minnich, Reg. No. 24,175	Robert V. Vickers, Reg. No. 19,504
Christopher B. Fagan, Reg. No. 22,987	Jay F. Moldovanyi, Reg. No. 29,678	Gregory S. Vickers, Reg. No. 45,180
Patrick D. Floyd, Reg. No. 39,671	Philip J. Moy, Reg. No. 31,280	Joseph E. Waters, Reg. No. 50,427
Jude A. Fry, Reg. No. 38,340	Timothy E. Nauman, Reg. No. 32,283	Thomas E. Young, Reg. No. 28,924
Steven M. Haas, Reg. No. 37,841	Erik J. Overberger, Reg. No. 48,556	John S. Zanghi, Reg. No. 48,843

**DIRECT TELEPHONE CALLS TO:**

Timothy E. Nauman  
Telephone: 216/861-5582  
Facsimile: 216/241-1666  
E-mail: tnauman@faysharpe.com

**DIRECT ALL CORRESPONDENCE TO:**

Timothy E. Nauman  
Fay, Sharpe, Fagan, Minnich & McKee, LLP  
1100 Superior Avenue, 7th Floor  
Cleveland, OH 44114-2518

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

**Full name of first joint inventor:** Brian J. Davis

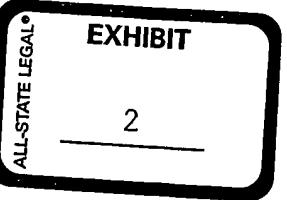
Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: Aurora, Ohio  
Country of Citizenship: United States of America Post Office Address: 12931 Chamberlain Road  
Aurora, Ohio 44202-9745

**Full name of second joint inventor:** Gary Kochis

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: Uniontown, Ohio  
Country of Citizenship: United States of America Post Office Address: 2663 Curry Circle  
Uniontown, Ohio 44685

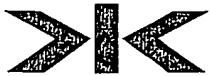
**Full name of third joint inventor:** E. Kent Miller

Inventor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Residence: Cincinnati, Ohio  
Country of Citizenship: United States of America Post Office Address: 7107 Butterwood Drive  
Cincinnati, Ohio 45241



**KAHN KLEINMAN**  
Counselors at Law

February 26, 2004



Timothy E. Nauman  
Fay, Sharpe, Fagan, Minnich & McKee  
1100 Superior Avenue, 7th Floor  
Cleveland, Ohio 44114

Michael A. Ellis, Esq.  
Direct Dial: 216-736-3348

**RECEIVED**

FEB 27 2004

FAY, SHARPE, BEALL, FAGAN,  
MINNICH & MCKEE

**RE: Mizar Technologies, Inc.**

Dear Mr. Nauman:

I am in receipt of your letters of February 19, 2004 relating to Mizar Technologies and Argo-Tech Corp. I have discussed both with Brian Davis, President of Mizar.

**REDACTED**

Office: 216.696.3311  
2600 Erieview Tower  
1301 East 9th Street  
Cleveland, Ohio 44114-1824  
Fax: 216.623.4912  
[www.kahnkleinman.com](http://www.kahnkleinman.com)



**KAHN KLEINMAN**

Counselors at Law

Timothy E. Nauman, Esq.  
February 26, 2004

Page 2

Very truly yours,



Michael A. Ellis

MAE/nmm

cc: Mr. Brian Davis

**REDACTED**